IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE EIGHTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 14842 of 2005

Between:

Chodabathina Chennaiah, S/o. Adivaiah, R/o. Toomaadu, Jarugumalli Mandal, Prakasham District.

..... PETITIONER

AND

1 The District Collector, Prakasham District.
2 The Commissioner, Endowments Department,
Tilak Road, Abids, Hyderabad.
3 The Executive Officer, Sri Kashi Vishweshwara Swamy
Dewasthanam, Toomadu, Jarugumalli Mandal, Prakasam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or Writ, more particularly one in the nature of Writ of Mandamus seting aside the Public auction of lands of Sri Kashi Vishweshwara Swami Dewasthanam Temple of Toomadu Village, Jarugumalli Mandal, Prakasam District, and set aside the same holding it as illegal, arbitrary, contrary to law, and against the principles of natural justice.

Counsel for the Petitioner: MR. MOHDVASI AHMED

Counsel for the Respondents: GP FOR ENDOWMENTS

The Court made the following :

:: ORAL ORDER ::

The petitioner is a member of the Prakasam District Scheduled Castes Cooperative Society Ltd. An extent of Ac.28.00 agricultural land in Sy.No. 63/1 of Toomadu village, Jarugumalli Mandal belonging to Sri Kasi Visweswara Swamy Temple was leased by the Endowments Department to the Society on a specified annual lease amount. The District Collector, Prakasam District, as the Chairman of the Society by an order dated 12.8.1992 granted lease of several smaller extents out of the above Ac.28 in favour of individual members of the society. The petitioner is one such person to whom an extent of Ac.1.00 was given on lease by the Chairman of the Society.

The grievance of the petitioner is that the 3rd respondent issued an auction notice on 30.6.2005 for grant of lease of the lands belonging to the said temple without considering the claims of the petitioner as a landless poor person and therefore to the benefits u/Sec.82 of the AP Charitable and Hindu Religious Institutions and Endowments Act, 1987 ('the Act'). The petitioner claims to be a landless poor person and lessee of the said temple on the basis of the sub-lease granted by the District Collector in his capacity as Chairman of the Society, in an extent of Ac.1.00

In the aforesaid facts and in the circumstances clearly the petitioner is not a lessee of Sri Kasi Visweswara Swamy Temple, Toomadu. The lease was granted to the Society and not to the petitioner and the other members. The action of the District Collector as the Chairman of the Society sub-leasing the lands to individual members in smaller extents does not create any lessor-lessee relationship between the Devasthanam and the petitioner. It is neither pleaded nor established that the subject temple or the Endowment Department was a party to any such sub-leasing arrangement or had consented to it in the manner provided in the Endowment Statute. As the petitioner is not a lessee, he is not entitled to any of the benefits u/Sec.82 of the Act and consequently the petitioner has no legal case for resisting the auction of the temple lands. The writ petition is misconceived and is accordingly dismissed. No order as to costs.

Dated: 08.07.2005 ----------

Pvsn Justice G. Raghuram

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The District Collector, Prakasham District.
2 The Commissioner, Endowments Department,
Tilak Road, Abids, Hyderabad.
3 The Executive Officer, Sri Kashi Vishweshwara Swamy
Dewasthanam, Toomadu, Jarugumalli Mandal, Prakasam District.

4 Two CCs to the GP for Endowments, High Court buildings, Hyderabad (OUT)

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